

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHARLES BUTLER,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:08cv1
vs.	:	
	:	Chief Judge Susan J. Dlott
WARDEN, LEBANON CORRECTIONAL	:	
INSTITUTION,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Black. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on April 14, 2009 a Report and Recommendation (Doc. 28). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 35)

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to the claims alleged in the petition because petitioner has failed to make a substantial showing of the denial of a constitutional rights based on these claims. *See* 28 U.S.C. § 2253 (c); Fed. R. App. P. 22(b).

The Court will certify pursuant to 28 U.S.C. § 1915 (a)(3) that an appeal of any Order

adopting the Report and Recommendation will not be taken in “good faith” and, therefore **DENY** petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F. 3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court